

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JIMMIE MARSHALL,

Plaintiff,

vs.

No. CIV 99-1363 LH/LCS

CITY OF HOBBS, CAPTAIN TONY
KNOTT, SERGEANT WALTER ROYE, and
OFFICER RODNEY PORTER,

Defendants.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on the Defendants' Motion to Bifurcate (Docket No. 156). The Court, having considered the pleadings submitted by the parties, the applicable law, and otherwise being fully advised, finds that the motion is **well taken** and should be **granted**.


The Defendants have moved this Court to bifurcate the Plaintiff's claims against the individual defendants from his supervisory and municipal liability claims for the sake of judicial economy and to avoid prejudice to the Defendants. The Defendants are correct that the Plaintiff must establish a predicate constitutional injury in order to recover on his supervisory and municipal liability claims. He therefore cannot recover against Defendant Knott and the City of Hobbs unless and until he recovers against Defendants Porter and/or Roye.

The Court finds that bifurcation would serve the interest of judicial economy in this case. It will also avoid the intermingling of evidence of the two types of claims, and the risk that the jury

might consider evidence of one when deciding the other. *City of Los Angeles v. Heller*, 475 U.S. 796 (1986), approved of bifurcation in a similar case, and the Court finds its reasoning persuasive.

IT IS THEREFORE ORDERED that the Defendant's Motion to Bifurcate is **granted**.

IT IS SO ORDERED.



SENIOR UNITED STATES DISTRICT JUDGE